

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ROBERT GRAY,)	
)	
Plaintiff,)	Civil Action No. 05-11445 DPW
)	
v.)	
)	
TRANSPORTATION SECURITY)	
ADMINISTRATION; EDMUND S. HAWLEY ¹ ,)	
in his capacity as ASSISTANT SECRETARY)	
FOR HOMELAND SECURITY,)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, DEPARTMENT OF)	
HOMELAND SECURITY; DEPARTMENT OF)	
HOMELAND SECURITY; and MICHAEL)	
CHERTOFF, in his capacity as SECRETARY)	
OF THE DEPARTMENT OF HOMELAND)	
SECURITY,)	
)	
Defendants.)	
)	

DEFENDANTS' STATUS REPORT

Pursuant to this Court's Electronic Order dated September 21, 2005, defendants Transportation Security Administration, *et al.*, hereby provide this Court with notice regarding the status of proceedings in the United States Court of Appeals for the First Circuit.

On September 21, 2005, plaintiff filed an amended petition for review in the First Circuit and an emergency motion for interim relief pursuant to 49 U.S.C. § 46110. The government opposed plaintiff's motion and moved to file materials under seal for ex parte and in camera review. On September 28, 2005, the First Circuit denied without prejudice plaintiff's emergency motion for interim relief; granted the government's motion to file materials under seal for ex parte and in

¹ Pursuant to Fed. R. Civ. P. 25(d)(1), Edmund S. Hawley is automatically substituted for his predecessor, James Loy, as Assistant Secretary for Homeland Security, Transportation Security Administration, Department of Homeland Security. .

camera review; and established an expedited briefing schedule, with a hearing date of November 7, 2005. See Attachment A.

On September 29, 2005, plaintiff filed a motion to reconsider the allowance of the government's motion to file materials under seal for ex parte and in camera review, which the government opposed. On October 4, 2005, the First Circuit denied the motion for reconsideration. See Attachment B.

On October 5, 2005, plaintiff filed an assented-to motion to extend time and to continue oral argument. On October 7, 2005, the First Circuit granted plaintiff's motion in part, and established the following schedule:

- Respondent's materials filed under seal by October 25, 2005
- Petitioner's brief filed by November 10, 2005
- Respondent's brief filed by November 21, 2005
- Petitioner's reply brief (if any) filed by November 29, 2005
- Oral argument December 5, 2005.

See Attachment C.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Mark T. Quinlivan
MARK T. QUINLIVAN
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
Tel: (617) 748-3606
mark.quinlivan@usdoj.gov

Dated: October 21, 2005

United States Court of Appeals For the First Circuit

No. 05-2024

ROBERT WILLIAM GEORGE MULRYNE GRAY,

Petitioner,

v

TRANSPORTATION SECURITY ADMINISTRATION,

Respondent.

ORDER OF COURT

Entered: September 28, 2005

The motion to file materials ~~under seal~~ for ex parte and in camera review is granted. ~~The respondent shall file these materials no later than October 11, 2005.~~

The petitioner's "emergency" motion for interim relief is denied without prejudice to reconsideration by this court if it deems reconsideration warranted upon receipt of the sealed materials.

However, the court's consideration of this petition for judicial review shall be expedited. Petitioner's brief shall be filed on or before October 7, 2005. Respondent's brief shall be filed on or before October 17, 2005. Petitioner's reply brief, if any, shall be filed on or before October 24, 2005. The petition for judicial review shall be heard at the Boston oral argument session on November 7, 2005.

By the Court:

Richard Cushing Donovan, Clerk

By: MARGARET CARTER
Chief Deputy Clerk.

United States Court of Appeals For the First Circuit

No. 05-2024

ROBERT WILLIAM GEORGE MULRYNE GRAY,

Petitioner,

v.

TRANSPORTATION SECURITY ADMINISTRATION,

Respondent

Before
Boudin, Chief Judge,
Stahl, Senior Circuit Judge
and Lynch, Circuit Judge.

ORDER OF COURT

Entered: October 4, 2005

Petitioner's motion for reconsideration of this court's order of September 28, 2005 is denied.

By the Court:

Richard Cushing Donovan, Clerk

By: MARGARET CARTER
Chief Deputy Clerk

[cc: Francine Kerner, Esq., Mark T. Quinlivan, AUSA,
Douglas N. Letter, Esq., Paul Victor Holtzman, Esq.,
Sarah R. Wunsch, Esq., Hugh Dun Rappaport, Esq.]

United States Court of Appeals For the First Circuit

No. 05-2024

ROBERT WILLIAM MULRYNE GRAY

Petitioner

v.

TRANSPORTATION SECURITY ADMINISTRATION

Respondent

ORDER OF COURT Entered: October 7, 2005

The petitioner's assented-to motion to extend time and to continue oral argument is granted, in part. The time for respondent to file its documents under seal is extended to October 25, 2005. The briefing schedule is extended as follows: petitioner's brief shall be filed by November 10, 2005, the respondent's brief shall be filed by November 21, 2005, and any reply brief is due November 29, 2005.

This matter is hereby removed from the Monday, November 7, 2005 oral argument calendar and is rescheduled for **Monday, December 5, 2005**. No further request for continuance of the oral argument date will be granted.

So ordered.

By the Court:

Richard Cushing Donovan, Clerk

MARGARET CARTER

By: _____
Chief Deputy Clerk

[cc: Francine Kerner, Esq., Mark T. Quinlivan, AUSA, Douglas N. Letter, Esq., Paul Victor Holtzman, Esq., Sarah R. Wunsch, Esq., Hugh Dun Rappaport, Esq.]